

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE MAY 20, 2003

AMENDED IN SENATE APRIL 28, 2003

AMENDED IN SENATE APRIL 10, 2003

AMENDED IN SENATE APRIL 8, 2003

SENATE BILL**No. 888**

Introduced by Senators Dunn, Bowen, and Burton
**(Coauthors: Senators *Cedillo*, *Escutia*, *Karnette*, *Kuehl*, *Murray*,
Ortiz, *Perata*, and *Romero*)**
(Coauthors: Assembly Members Leno, Matthews, Oropeza, and
Steinberg)

February 21, 2003

An act to amend Sections 335, 348, 352, 364, 367, 377, 379, 392, and 9604 of, to amend and renumber Section 454.1 of, to add Sections 330.1, 330.2, 330.4, 330.6, 367.5, 393.1, 393.2, 454.55, 454.10, 701.2, 739.12, and 761.7 to, to repeal Sections 334, 338, 341.1, 341.5, 346, 350, 355, 356, 359, 360, 361, 365.5, 366.5, 367.7, 370, 373, 376, 378, 389, 391, 397, 9600, 9601, 9602, 9603, and 9605 of, and to repeal and add Sections 330, 365, and 366 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 888, as amended, Dunn. Public utilities: electrical restructuring.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. Private

corporations and persons that own, operate, control, or manage a line, plant, or system for the production, generation, transmission, or furnishing of heat, light, or power, directly or indirectly, to or for the public, are public utilities subject to control by the Legislature. The Constitution grants the commission certain general powers over all public utilities, including the power to fix rates and establish rules, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. The Public Utilities Act authorizes the commission to supervise and regulate every public utility in the state, including electrical, gas, and heat corporations, subject to provisions restructuring the electrical industry.

The existing restructuring of the electrical services industry provides for the authorization of direct transactions between an electric service provider, as defined, and retail ~~end-use~~ *end-use* customers of an electrical corporation and allows ~~end-use~~ *end-use* customers to aggregate their loads to facilitate direct transactions. The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO) and a Power Exchange as separately incorporated public benefit nonprofit corporations. An Electricity Oversight Board (Oversight Board) is also established to oversee the ISO and the Power Exchange in order to ensure the success of electric industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. The ISO is required by existing law to participate in all relevant proceedings of the Federal Energy Regulatory Commission (FERC). Pursuant to an order of the FERC, the Power Exchange has ceased to function. The Oversight Board is granted various powers including, but not limited to, requiring the revision of the bylaws of the ISO and the approval of the entry of the ISO into a multistate entity or a regional organization. Existing law requires the ISO to adopt certain inspection, maintenance, repair, and replacement standards for the transmission facilities under its control and to make a related report to the Oversight Board. Existing law authorizes the ISO and the Power Exchange to enter into a regional compact or other comparable agreement to become western states regional organizations.

This bill would enact the Repeal of Electricity Deregulation Act of 2003. The bill would provide that electrical and gas corporations have an obligation to serve retail customers with reliable service at just and



reasonable rates. The bill would provide that this obligation includes a ~~duty of care, a duty of loyalty, a duty of disclosure, and a duty to use best efforts by the corporation's management,~~ to promote the safety, health, environmental protection, comfort, and convenience of its customers, employees, and the public, consistent with the statutes of the state and the rules, regulations, decisions, and orders of the commission. The bill would provide that this obligation to serve also includes the obligation to plan for and provide sufficient, *affordable*, reliable, cost-effective resources, including utility owned and procured generation resources, transmission resources, and distribution resources. The bill would require the commission to ensure that the electrical corporation is afforded the means to carry out these obligations, specifically including ~~reasonable compensation for employees and a reasonable opportunity to recover from all customers reasonable investments in electric plants~~ *a reasonable opportunity to recover from all customers, reasonable costs to operate and maintain those resources, reasonable compensation for employees, a return of and a reasonable return on prudent investments in utility owned generation, transmission, and distribution resources necessary to meet the above obligations, and reasonable costs for procured generation resources.* The bill would require the commission to ensure that generation assets remain dedicated for the benefit of the electrical corporation's bundled customers, and establishes standards for the recovery of costs and return on investment. The bill requires the commission to establish and oversee a long-term, comprehensive integrated resource planning process that results in a balanced, reliable, environmentally responsible portfolio of supply and demand-reduction resources, and to ensure that the electrical corporation's procurement plan is consistent with the long-term resource plan, to the extent feasible. The bill would authorize the commission to require electrical corporations to make investments in electric generation plants that are dedicated to serve customers connected to the electrical corporation's distribution system or grid, or to contract for such investment with any entity, including the California Consumer Power and Conservation Financing Authority.

This bill would delete the authorization of direct transactions, including aggregation of loads and other provisions to facilitate direct transactions, between an electric service provider and retail ~~end-use~~ *end-use* customers of an electrical corporation, on a prospective basis. The bill would require all metering of customer usage of electricity and customer billing to be performed by the electrical corporation and



would prohibit residential and small commercial customers being required to take service under a time-differentiated rate without prior consent.

This bill would delete those provisions establishing the Power Exchange ~~and would make conforming changes repealing those provisions granting powers to the Oversight Board relative to the Power Exchange~~. The bill would delete provisions relative to the ISO participation in FERC activities. The bill would require the Legislature to approve the entry of the ISO into a multistate or regional transmission organization, and would repeal that provision regarding the adoption of standards for transmission facilities by the ISO. The bill would require the commission to adopt and periodically review and update inspection, maintenance, repair, and replacement standards for the distribution ~~and transmission~~ systems of investor-owned electric utilities. The bill would require the commission, on or before June 1, 2004, to develop, and submit to the Legislature for enactment as a statute, a detailed proposal for implementation of a “core/noncore” model for retail electric service that achieves certain objectives. The bill would repeal the regional compact provision. The bill would make other conforming changes. Because any violation of the Public Utilities Act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

This bill would establish a Ratepayer Refund Account for each electrical corporation, into which would be paid any funds recovered by electrical corporations resulting from litigation or agreement relative to the charging of excessive costs for wholesale electricity by electrical generators. All funds would be held in trust for the benefit of ratepayers as authorized by the commission.

(2) The existing Public Utilities Act, prohibits any person or corporation from acquiring or controlling, directly or indirectly, any public utility organized and doing business in this state, including electrical corporations and gas corporations, without first securing authorization to do so from the commission.

Existing law requires the commission, before authorizing the acquisition or control of an electric, gas, or telephone utility having revenues in excess of a specified amount, to consider, among other things, that the proposal provides short-term and long-term economic benefits to ratepayers, and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or control, as determined by the commission, between



shareholders and ratepayers, where the commission has ratemaking authority.

Pursuant to the act, the commission has authorized the formation of holding companies holding a controlling interest in certain electrical corporations and gas corporations. The commission has conditioned authorization upon the capital requirements of the electrical corporation or gas corporation being given first priority by the board of directors of the parent holding company, as determined by the commission as being necessary to meet the obligation to serve the electrical corporation or gas corporation.

This bill would provide that a holding company, as defined, or other entity that owns, controls, operates, or manages a public utility, is subject to the continuing jurisdiction and power of the commission for the limited purpose of monitoring and enforcing conditions in certain decisions of the commission authorizing the formation of holding companies. Because a violation of the Public Utilities Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

(3) This bill would delete provisions relative to the restructuring of electrical service provided by publicly owned electrical utilities.

(4) This bill would require the commission to establish *by July 1, 2004*, special bundled service rates for public school facilities, *as defined*, that reflect the typical seasonal load shape of public schools and the special importance of public education.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) *This bill would provide that it shall not become operative, and that it is for display purposes only.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 330 of the Public Utilities Code is
2 repealed.

1 SEC. 2. Section 330 is added to the Public Utilities Code, to
2 read:

3 330. The act adding this section shall be known and may be
4 cited as the Repeal of Electricity Deregulation Act of 2003.

5 SEC. 3. Section 330.1 is added to the Public Utilities Code, to
6 read:

7 330.1. The Legislature finds and declares all of the following:

8 (a) Electricity is a unique good in modern society, not a simple
9 commodity. Access to safe, reliable, *environmentally clean*,
10 *efficient*, and affordable electrical service is indispensable to the
11 health, comfort, and well-being of every person and business, and
12 should be regarded as a right.

13 (b) Unlike other commodities, electricity must be
14 manufactured at the same instant it is consumed, it cannot be
15 effectively stored, and adequate generating *conservation*,
16 *efficiency*, *generation*, and transmission capacity must be
17 available at all times to meet any level of demand at any location.
18 Shortages, even for only a few minutes, cause blackouts. This
19 combination of circumstances creates unparalleled opportunities
20 for discrimination and market manipulation.

21 (c) Reliable, *environmentally clean*, and *efficient*, electrical
22 service is of utmost importance to the safety, health, and welfare
23 of the state's citizenry, *environment*, and economy. It is the intent
24 of the Legislature that regulation of the electrical industry should
25 ensure the reliability of electrical service to end users, including
26 the reliability of the interconnected regional transmission systems,
27 and provide strong coordination and enforceable protocols for all
28 users of the electricity grid.

29 (d) Accordingly, the electrical industry must be
30 comprehensively regulated, by state and federal agencies for
31 investor-owned utilities, or by customer-controlled structures for
32 public and cooperative utilities. The people of California expect
33 effective government and utility action to ensure reliable service
34 at reasonable rates.

35 (e) Electrical service in California was restructured, or
36 deregulated, by orders of the California Public Utilities
37 Commission (CPUC) and the Federal Energy Regulatory
38 Commission (FERC), and actions of the California Independent
39 System Operator pursuant to FERC authorization, which ordered
40 separation of the transmission and generation elements of

1 electrical service resulting in: (1) divestiture of powerplants that
2 had been built and dedicated to serve California consumers at just
3 and reasonable regulated rates; (2) the separation of wholesale and
4 retail transmission service by the utility owners of the transmission
5 facilities; (3) uses of the transmission grid designed to enable
6 sellers to undermine grid reliability in the pursuit of high prices
7 through the exercise of market power.

8 (f) The California Legislature confirmed the CPUC orders in
9 some respects through the enactment of Assembly Bill 1890
10 (Chapter 854 of the Statutes of 1996), and in so doing, codified the
11 basic tenants of deregulation of electrical service in California.

12 (g) As the direct result of deregulation of the electrical industry,
13 electricity markets in California have been grossly dysfunctional
14 for the past several years, characterized by manipulation and abuse
15 of seller market power in wholesale electricity markets,
16 withholding of vital energy supplies and other illegal conduct that
17 resulted in unjust and unreasonable wholesale prices for
18 electricity, causing elevated retail rates and repeated actual and
19 threatened interruptions of electrical service.

20 (h) As the direct result of the deregulation of the wholesale
21 electrical market and the dysfunctional service arrangements,
22 residential and business consumers have endured the single largest
23 retail rate increase in the state's history, the state's largest electrical
24 corporation filed for bankruptcy, a second electrical corporation
25 was on the verge of insolvency, and reliable electrical service was
26 repeatedly jeopardized. It will take many years for the economic
27 effects of these calamities to be overcome.

28 (i) During the period from May 2000 through June 2001,
29 California was beset by actual and threatened blackouts due to
30 supply withholding by wholesale generators and electricity
31 traders, using both direct and indirect means to make electricity
32 unavailable to the people of California.

33 (j) As the direct result of deregulation of the electrical supply
34 market, California was forced to rely entirely on unregulated
35 private investment decisions to provide sufficient electrical
36 generation to satisfy the demand for electricity. As a direct result
37 of deregulation of the electrical supply market, California has
38 experienced the boom and bust cycle in the construction of new
39 electrical powerplants that characterizes any unregulated market.

40 ~~The wholesale electricity generation sector, subject only to~~

~~ineffective or nonexistent regulation by FERC, is now failing to invest in new generation needed by California.~~

~~(k) As the direct result of deregulation of the electrical industry, California's traditional commitments to renewable energy sources and investments in improved energy efficiency were weakened. In order to fulfill the mandates of Senate Bill 1078 (Chapter 516 of the Statutes of 2002), which is necessary to protect California's environment, public utilities must be able to implement the California Renewables Portfolio Standard Program.~~

~~(l) California electricity consumers will inevitably provide the ultimate credit support for any new investment in facilities for the provision of electrical service in the future either through rate-based utility investments or through long-term contracts with other suppliers. Protecting~~

(k) The state should move to a new model for electricity resource development and management, under which public utilities manage and improve their generation, transmission, and distribution systems as well as a resource portfolio including cost-effective energy efficiency and conservation and environmentally clean and efficient electrical generation resources.

(l) It appears inevitable that California electricity consumers will be called upon to provide the ultimate credit support for any new investments in facilities for the provision of electrical service in the future, either via rate-based utility investments or through preapproved long-term contracts with other suppliers. Therefore, protecting the interests of consumers by ensuring that investment in these investments are prudent and cost-effective should be the highest priority of California regulatory policy and action.

(m) It is in the state's interest to have functional creditworthy public utilities providing essential electrical service to California consumers at just and reasonable rates and to limit the exposure of California consumers to dysfunctional deregulated wholesale electricity markets.

(n) Fully empowering public utilities and state entities and agencies, including the CPUC, the California Consumer Power and Conservation Financing Authority, the Independent System Operator, and the Department of Water Resources to mitigate the exercise of market power by sellers of electricity, reduce prices for electricity, and restore electrical grid reliability, is in the public

1 interest. To the extent that unbundling the elements of electrical
2 service, including transmission of electricity provided to retail
3 consumers, weakens the ability of California to protect its people,
4 such unbundling should be reconsidered and reversed.

5 (o) Direct transactions, popularly termed direct access, as a
6 means for obtaining retail electrical service, have resulted in
7 massive subsidies of some retail customers by others. Direct
8 access has resulted in increased costs for bundled service
9 customers of electrical corporations, while failing to provide
10 justifiable reduced costs for direct access customers. Direct access
11 undermines the ability of public utilities to plan and invest to meet
12 their obligation to serve, by making uncertain the amount of
13 customer demand that must be met. To the extent that retail
14 competition is permitted by the Legislature, the existing direct
15 access program should be replaced by a retail competition program
16 that is more stable and transparent, ~~and that~~ *that promotes*
17 *renewable and other clean sources of electricity, and that* fairly
18 assigns risks and costs between different customer classes,
19 electrical corporations, and retail competitors.

20 (p) The expectations and assumption that deregulation of the
21 electrical industry would provide consumer benefits, enhanced
22 reliability, lower rates and technological innovation, have proven
23 illusory. Instead, consumers have been and will be forced to pay
24 for massive costs incurred as a result of deregulation, and have
25 suffered from unprecedented degradation in the reliability of
26 electricity supply. Public utilities have been forced to near
27 financial ruin or to seek bankruptcy protection. Certain merchant
28 generators and marketers are in severe financial distress.

29 (q) It is in the public interest to repudiate the failed policies of
30 electrical industry deregulation, and to assure the people of
31 California that electrical service will be reliable ~~and affordable~~,
32 *affordable, efficient, and clean* in the future through effective
33 regulation.

34 SEC. 4. Section 330.2 is added to the Public Utilities Code, to
35 read:

36 330.2. It is the intent of the Legislature to achieve effective
37 *state* regulation of California's public utilities *in order to protect*
38 *ratepayers, ensure adequate and efficient electrical service, to*
39 *protect public health and the environment*, and to pursue the
40 following policy goals:

1 (a) Restore and affirm the public utility's obligation to serve all
2 of its customers with electric generation supply, transmission, and
3 distribution.

4 (b) Protect public health and the environment.

5 (c) Eliminate opportunities for market manipulation by
6 stopping electric plant divestiture and authorizing cost-of-service
7 construction of new electric plant, *pursuant to subdivision (b) of*
8 *Section 454.10 and subject to the maximum cost limitation of*
9 *Section 1005.5*, while providing a reasonable opportunity for
10 reasonable return of and on prudent investments, and appropriate
11 rules for public utility wholesale electricity procurement.

12 (d) *Ensure reasonable and prudent investments in energy*
13 *conservation and environmentally clean and efficient generation*
14 *of electricity that is subject to state regulation and oversight.*

15 (e) Ensure electricity supply reliability and deter market
16 manipulation by establishing and enforcing effective standards for
17 maintenance and operation of electric plants that serve California.

18 ~~(e)~~

19 (f) *Ensure that all cost-effective transmission and distribution*
20 *alternatives that meet the identified need, including demand-side*
21 *alternatives, are considered in transmission and distribution*
22 *planning.*

23 (g) Provide for cost-effective construction, operation and
24 maintenance of the electrical transmission grid and distribution
25 system, *or cost-effective alternatives*, in the public interest, while
26 providing a fair opportunity for reasonable returns on prudent
27 investment.

28 ~~(f)~~

29 (h) Protect consumers from slamming, cramming and fraud by
30 requiring metering, billing, collection, and customer service to be
31 provided *in the most efficient and least costly manner to customers*
32 by public utilities, under regulation by the CPUC.

33 ~~(g)~~

34 (i) Preserve and renew the skilled public utility workforce by
35 ~~ending employee layoffs~~, providing reasonable wages and
36 working conditions, and ensuring that the public utilities have an
37 adequately sized and trained workforce, *with a preference for*
38 *utility employees*, to meet their obligation to serve.

39 ~~(h)~~

(j) Establish a comprehensive integrated resource planning process under regulation that results in a balanced, reliable, environmentally responsible portfolio , consisting of a cost-effective mix of customer-owned, utility-owned, and nonutility supply and demand reduction resources, and is consistent with Sections ~~701.1 and 454.5~~ *454.5 and 701.1*, Article 16 (commencing with Section 399.11), and Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code.

~~(i)~~

(k) Offer first consideration, when providing for resource adequacy, to available energy efficiency resources and renewable resources, consistent with Article 16 (commencing with Section 399.11), that are cost-effective compared to other available resource options.

~~(j)~~

(l) Simplify corporate ownership of electrical corporations by requiring transparent forms of corporate ownership of public utilities, by improving accountability for holding company requirements in state law and by seeking enforcement of the Public Utilities Holding Company Act of 1935 (Ch. 2C (commencing with Sec. 79), Title 15, U.S.C.).

~~(k)~~

(m) Provide for fair cost allocation among customers in just and reasonable rates ~~fixed~~ *established* through open public processes.

~~(l)~~

(n) Restore consumer and investor confidence in electrical corporation financial soundness and pricing fairness by making costs transparent and establishing and enforcing accounting standards.

~~(m)~~

(o) Assure universal service by assuring affordable rates and, among other measures, providing low-income discounts with effective enrollment programs.

~~(n)~~

(p) Provide an open regulatory forum where all persons affected by public utility service and rates can observe and participate in the decisionmaking process.

1 ~~(q) Ensure that public utilities, their facilities and plant, and~~
2 ~~any real property they own, are operated and managed in an~~
3 ~~environmentally sound manner.~~

4 ~~(r) Ensure that in its proceedings, the commission actively~~
5 ~~promotes protection of ratepayers and the environment.~~

6 SEC. 5. Section 330.4 is added to the Public Utilities Code, to
7 read:

8 330.4. The actions of the commission pursuant to this part, as
9 they affect electrical service, shall be consistent with the findings
10 and declarations contained in this article.

11 SEC. 6. Section 330.6 is added to the Public Utilities Code, to
12 read:

13 330.6. (a) Because of their status as public utilities pursuant
14 to Article XII of the California Constitution, and consistent with
15 Sections 399.2 and 451, electrical corporations and gas
16 corporations that serve retail customers have an obligation to serve
17 those customers with reliable service at just and reasonable rates.

18 (b) This obligation to serve includes a duty of care, a duty of
19 loyalty, a duty of disclosure, and a duty to use best efforts by the
20 ~~corporation's management,~~ to promote the safety, health,
21 environmental protection, comfort, and convenience of its
22 customers, employees, and the public, consistent with the statutes
23 of the state and the rules, regulations, decisions, and orders of the
24 commission. This obligation to serve includes the obligation to
25 plan for, and provide sufficient, *affordable*, reliable, cost-effective
26 resources, including utility owned and procured generation
27 resources, transmission resources, and distribution resources.

28 (c) The commission, on behalf of ~~enduse~~ *end-use* customers,
29 shall ensure that the electrical corporation is afforded the means to
30 carry out this obligation to serve, specifically including ~~reasonable~~
31 ~~compensation for employees and a reasonable opportunity to~~
32 ~~recover from all customers, in a manner determined by the~~
33 ~~commission pursuant to this code, reasonable investments in~~
34 ~~electric plant, including a reasonable return on those investments,~~
35 ~~reasonable costs to operate and maintain the electric plant, and~~
36 ~~procurement costs~~ *a reasonable opportunity to recover from all*
37 ~~customers, in a manner determined by the commission pursuant to~~
38 ~~this code, reasonable costs to operate and maintain those~~
39 ~~resources, reasonable compensation for employees, a return of and~~
40 ~~a reasonable return on prudent investments in utility owned~~

1 *generation, transmission, and distribution resources necessary to*
2 *meet the obligations pursuant to subdivision (b), and reasonable*
3 *costs for procured generation resources in accordance with*
4 *Section 454.5.*

5 SEC. 7. Section 334 of the Public Utilities Code is repealed.

6 SEC. 8. ~~Section 335 of the Public Utilities Code is amended~~
7 ~~to read:~~

8 ~~335. In order to ensure that the interests of the people of~~
9 ~~California are served, a five-member Electricity Oversight Board~~
10 ~~is hereby created as provided in Section 336. For purposes of this~~
11 ~~chapter, any reference to the Oversight Board shall mean the~~
12 ~~Electricity Oversight Board. Its functions shall be all of the~~
13 ~~following:~~

14 ~~(a) To oversee the Independent System Operator.~~

15 ~~(b) To serve as an appeal board for majority decisions of the~~
16 ~~Independent System Operator governing board, as they relate to~~
17 ~~matters subject to exclusive state jurisdiction, as specified in~~
18 ~~Section 339.~~

19 ~~(c) To investigate any matter related to the wholesale market~~
20 ~~for electricity to ensure that the interests of California's citizens~~
21 ~~and consumers are served, protected, and represented in relation~~
22 ~~to the availability of electrical transmission and generation and~~
23 ~~related costs, during periods of peak demand.~~

24 SEC. 9. Section 338 of the Public Utilities Code is repealed.

25 SEC. 10. —

26 SEC. 9. Section 341.1 of the Public Utilities Code is repealed.

27 SEC. 11. —

28 SEC. 10. Section 341.5 of the Public Utilities Code is
29 repealed.

30 SEC. 12. —

31 SEC. 11. Section 346 of the Public Utilities Code is repealed.

32 SEC. 13. —

33 SEC. 12. Section 348 of the Public Utilities Code is amended
34 to read:

35 348. (a) The Independent System Operator, in consultation
36 with the commission ~~and consistent with Section 364~~, shall adopt
37 and periodically review and update inspection, maintenance,
38 repair, and replacement standards for the transmission facilities
39 under its control. The standards for each substantial type of

1 transmission equipment or facility, shall provide for high quality,
2 safe, and reliable service.

3 (b) In adopting its standards, the Independent System Operator
4 shall consider all of the following:

5 (1) Cost.

6 (2) Local geography and weather.

7 (3) Applicable codes.

8 (4) National electric industry practices.

9 (5) Sound engineering judgment.

10 (6) Experience.

11 (c) The Independent System Operator shall also adopt
12 standards for reliability, and safety during periods of emergency
13 and disaster.

14 (d) The Independent System Operator shall require each
15 transmission facility owner or operator to report annually on its
16 compliance with the standards. That report shall be made available
17 to the public.

18 ~~SEC. 14.—~~

19 *SEC. 13.* Section 350 of the Public Utilities Code is repealed.

20 ~~SEC. 15.—~~

21 *SEC. 14.* Section 352 of the Public Utilities Code is amended
22 to read:

23 352. The Independent System Operator may not enter into a
24 multistate regional transmission organization unless that entry is
25 approved by the Oversight Board and the Legislature by
26 concurrent resolution.

27 ~~SEC. 16.—~~

28 *SEC. 15.* Section 355 of the Public Utilities Code is repealed.

29 ~~SEC. 17.—~~

30 *SEC. 16.* Section 356 of the Public Utilities Code is repealed.

31 ~~SEC. 18.—~~

32 *SEC. 17.* Section 359 of the Public Utilities Code is repealed.

33 ~~SEC. 19.—~~

34 *SEC. 18.* Section 360 of the Public Utilities Code is repealed.

35 ~~SEC. 20.—~~

36 *SEC. 19.* Section 361 of the Public Utilities Code is repealed.

37 ~~SEC. 21.—~~

38 *SEC. 20.* Section 364 of the Public Utilities Code is amended
39 to read:

364. (a) The commission shall adopt and periodically review and update inspection, maintenance, repair, and replacement standards for the distribution ~~and transmission~~ systems of investor-owned electric utilities. The standards for each substantial type of distribution ~~and transmission~~ equipment or facility shall provide for high quality, safe and reliable service.

(b) In setting its standards, the commission shall consider: cost, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The commission shall also adopt standards for operation, reliability, and safety during periods of emergency and disaster.

~~(d)~~

(c) The commission shall require each utility to report annually on its compliance with the standards. That report shall be made available to the public.

~~(e)~~

(d) The commission shall conduct a review to determine whether the standards prescribed in this section *and Section 348* have been met. If the commission finds that the standards have not been met, the commission may order appropriate sanctions, including penalties in the form of rate reductions or monetary fines. The review shall be performed after every major outage. Any money collected pursuant to this subdivision shall be used to offset funding for the California Alternative Rates for Energy Program.

~~SEC. 22.—~~

SEC. 21. Section 365 of the Public Utilities Code is repealed.

~~SEC. 23.—~~

SEC. 22. Section 365 is added to the Public Utilities Code, to read:

365. On or before June 1, 2004, the commission shall develop, and submit to the Legislature for enactment as a statute, a detailed proposal for implementation of a “core/noncore” model for retail electric service that achieves each of the following objectives:

(a) Permits specified electrical corporation customers to purchase electricity directly from ~~alternative retail~~ *electric service* providers.

(b) Provides that noncore customers forgo both the benefits and future-incurred costs of bundled electricity service from the electrical corporation.

1 (c) Provides that remaining core customers are served by the
2 electrical corporation's ~~generation~~ *electricity resource* portfolio.

3 (d) Requires each electrical corporation to maintain the value
4 of its ~~generation~~ *electricity resource* portfolio for core customers.

5 (e) Ensures electrical corporations and core customers full and
6 timely recovery of costs, *including investments in long-term*
7 *resource additions to the system*, originally incurred to serve
8 departing customers.

9 (f) Provides for full recovery of existing direct access
10 customers' energy cost obligations on a schedule comparable to
11 the recovery of comparable costs from core customers.

12 (g) Provides an election process for determining which
13 customers wish to remain core customers, and which customers
14 opt for noncore service, administered in a manner that ensures a
15 stable customer base for electrical corporations to support
16 long-term *integrated resource* planning and investment.

17 (h) Requires ~~noncore electric~~ service providers to comply with
18 conditions, including, ~~but not limited to~~, resource adequacy
19 standards, that the commission determines to be necessary and
20 appropriate to ensure there is no adverse effect on the reliability or
21 cost of electricity for core customers.

22 (i) Requires ~~noncore electric~~ service providers to comply with
23 ~~renewable procurement requirements comparable to electrical~~
24 ~~corporations~~; *the requirements established pursuant to Article 16*
25 *(commencing with Section 399.11)*.

26 (j) Permits core customers to purchase renewable power at cost
27 via electrical corporation renewable service options, in addition to
28 an electrical corporation's obligations under Article 16
29 (commencing with Section 399.11).

30 (k) Restricts the eligibility of noncore customers to return to
31 bundled service. Electrical corporation service to returning
32 noncore customers shall be provided at ~~cost~~ *a fully compensatory*
33 *rate*, and subject to contractual return conditions that prevent any
34 cost shifting.

35 (l) Shows that a core/noncore program will support, and not be
36 detrimental to, system reliability and future investments in
37 electricity infrastructure *and the objective of acquiring all*
38 *cost-effective demand reduction resources on the system*.

(m) Compares the public benefits of core/noncore to other electric service options, *including community choice aggregation, as provided in Section 366.2.*

(n) Protects existing contractual rights.

~~SEC. 24.—~~

~~SEC. 23.~~ Section 365.5 of the Public Utilities Code is repealed.

~~SEC. 25.—~~

~~SEC. 24.~~ Section 366 of the Public Utilities Code is repealed.

~~SEC. 26.—~~

~~SEC. 25.~~ Section 366 is added to the Public Utilities Code, to read:

366. (a) It is the intention of the Legislature that new direct transactions not be authorized until the commission proposes rules pursuant to Section 365 and those rules are enacted as statutes.

(b) Each customer within the geographical distribution area of an electrical corporation shall receive any retail electricity service from the electrical corporation or its successor in interest, except as provided in subdivision (c) and Sections 366.1 and 366.2. For purposes of this section, retail electricity service does not include self-provision of electricity from customer-owned generation resources or provision of electricity consistent with subdivision (b) of Section 218. ~~This subdivision does not prevent the commission from approving an application by an irrigation district to serve customers pursuant to Section 9607 or 9608.~~

(c) If a customer account was served by an electric service provider on April 1, 2003, the customer account may continue to be served by that electric service provider until the later of January 1, 2005, or the date of expiration of the customer's direct transaction contract in effect on April 1, 2003. Thereafter, the customer shall receive any retail electricity service from the electrical corporation that provides distribution service.

(d) A customer that elects to continue purchasing electricity from an electric service provider pursuant to subdivision (c) shall supply the commission with a confidential copy of its current direct transaction contract and shall enter *into* a contract with the electrical corporation, as a condition of distribution service, that sets forth terms of return to bundled service that prevent cost-shifting.

(e) Any customer that the commission has determined in Decision 02-11-022, is responsible to pay a cost recovery surcharge as a condition of purchasing electricity pursuant to a direct transaction, shall continue to pay the cost recovery surcharge until full collection is achieved.

(f) The commission shall report to the Legislature by June 1, 2004, all of the following:

(1) Each customer electing to continue purchasing electricity from an electric service provider pursuant to subdivision (c), identified numerically.

(2) The electrical load serviced under each direct transaction contract.

(3) The expiration date of each direct transaction contract.

~~SEC. 27.—~~

SEC. 26. Section 366.5 of the Public Utilities Code is repealed.

~~SEC. 28.—~~

SEC. 27. Section 367 of the Public Utilities Code is amended to read:

367. The commission shall identify and determine those costs and categories of costs for generation-related assets and obligations, consisting of generation facilities, generation-related regulatory assets, nuclear settlements, and power purchase contracts, including, but not limited to, restructurings, renegotiations or terminations thereof approved by the commission, that were being collected in commission-approved rates on December 20, 1995, and that may become uneconomic as a result of a competitive generation market, in that these costs may not be recoverable in market prices in a competitive market, and appropriate costs incurred after December 20, 1995, for capital additions to generating facilities existing as of December 20, 1995, that the commission determines are reasonable and should be recovered, provided that these additions are necessary to maintain the facilities through December 31, 2001. These uneconomic costs shall include transition costs as defined in subdivision (f) of Section 840, and shall be recovered from all customers or in the case of fixed transition amounts, from the customers specified in subdivision (a) of Section 841, on a nonbypassable basis and shall:

(a) Be amortized over a reasonable time period, including collection on an accelerated basis, consistent with not increasing

1 rates for any rate schedule, contract, or tariff option above the
2 levels in effect on June 10, 1996, provided that, the recovery shall
3 not extend beyond December 31, 2001, except as follows:

4 (1) Costs associated with employee-related transition costs as
5 set forth in subdivision (b) of Section 375 shall continue until fully
6 collected; provided, however, that the cost collection shall not
7 extend beyond December 31, 2006.

8 (2) Power purchase contract obligations shall continue for the
9 duration of the contract. Costs associated with any buyout,
10 buydown, or renegotiation of the contracts shall continue to be
11 collected for the duration of any agreement governing the buyout,
12 buydown, or renegotiated contract; provided, however, no power
13 purchase contract shall be extended as a result of the buyout,
14 buydown, or renegotiation.

15 (3) Nuclear incremental cost incentive plans for the San Onofre
16 nuclear generating station shall continue for the full term as
17 authorized by the commission in Decision 96-01-011 and Decision
18 96-04-059; provided that the recovery shall not extend beyond
19 December 31, 2003.

20 (4) Fixed transition amounts, as defined in subdivision (d) of
21 Section 840, may be recovered from the customers specified in
22 subdivision (a) of Section 841 until all rate reduction bonds
23 associated with the fixed transition amounts have been paid in full
24 by the financing entity.

25 (b) (1) There shall be a firewall segregating the recovery of the
26 costs of competition transition charge exemptions such that the
27 costs of competition transition charge exemptions granted to
28 members of the combined class of residential and small
29 commercial customers shall be recovered only from these
30 customers, and the costs of competition transition charge
31 exemptions granted to members of the combined class of
32 customers, other than residential and small commercial customers,
33 shall be recovered only from these customers.

34 (2) The commission shall retain existing cost allocation
35 authority, provided the firewall and rate freeze principles are not
36 violated.

37 ~~SEC. 29.~~—

38 *SEC. 28.* Section 367.5 is added to the Public Utilities Code,
39 to read:

1 367.5. (a) The commission shall establish a Ratepayer
2 Refund Account for each electrical corporation. All refunds, net
3 of litigation costs as authorized by the commission, recovered by
4 an electrical corporation, either directly or indirectly, by way of
5 offset against amounts otherwise owed by the electrical
6 corporation, resulting from any litigation or agreement relative to
7 the charging of excessive costs for wholesale electricity by
8 electrical generators, traders, and suppliers that have been
9 recovered, or are recoverable, from ratepayers in
10 commission-approved rates, shall be credited to the electrical
11 corporation's Ratepayer Refund Account.

12 (b) All funds held by an electrical corporation that are required
13 by this section to be credited to the Ratepayer Refund Account of
14 the corporation shall be held in trust for the benefit of ratepayers
15 in an amount and manner authorized by the commission.

16 ~~SEC. 30.—~~

17 ~~SEC. 29.~~ Section 367.7 of the Public Utilities Code is
18 repealed.

19 ~~SEC. 31.—~~

20 ~~SEC. 30.~~ Section 370 of the Public Utilities Code is repealed.

21 ~~SEC. 32.—~~

22 ~~SEC. 31.~~ Section 373 of the Public Utilities Code is repealed.

23 ~~SEC. 33.—~~

24 ~~SEC. 32.~~ Section 376 of the Public Utilities Code is repealed.

25 ~~SEC. 34.—~~

26 ~~SEC. 33.~~ Section 377 of the Public Utilities Code is amended
27 to read:

28 377. The commission shall regulate the facilities for the
29 generation of electricity owned by any public utility ~~on a cost of~~
30 ~~service basis pursuant to subdivision (b) of Section 454.10.~~
31 Notwithstanding any other provision of law, no facility or site for
32 the generation of electricity owned by a public utility may be
33 disposed of prior to January 1, 2010. The commission shall ensure
34 that public utility generation assets remain dedicated for the
35 benefit of the electrical corporation's bundled customers.

36 ~~SEC. 35.—~~

37 ~~SEC. 34.~~ Section 378 of the Public Utilities Code is repealed.

38 ~~SEC. 36.—~~

39 ~~SEC. 35.~~ Section 379 of the Public Utilities Code is amended
40 to read:

1 379. Nuclear decommissioning costs shall be recovered as a
2 nonbypassable charge until the costs are fully recovered. Recovery
3 of decommissioning costs may be accelerated to the extent
4 possible.

5 ~~SEC. 37.—~~

6 ~~SEC. 36.~~ Section 389 of the Public Utilities Code is repealed.

7 ~~SEC. 38.—~~

8 ~~SEC. 37.~~ Section 391 of the Public Utilities Code is repealed.

9 ~~SEC. 39.—~~

10 ~~SEC. 38.~~ Section 392 of the Public Utilities Code is amended
11 to read:

12 392. Electrical corporations shall disclose each component of
13 the electrical bill as directed by the commission.

14 ~~SEC. 40.—~~

15 ~~SEC. 39.~~ Section 393.1 is added to the Public Utilities Code,
16 to read:

17 393.1. The Legislature finds and declares all of the following:

18 (a) Metering customer usage of electricity is an integral part of
19 the electricity distribution system, and is the responsibility of the
20 electrical corporation.

21 (b) Accurately applying utility tariffs approved by the
22 commission and calculating a customer's bill is the responsibility
23 of the electrical corporation.

24 (c) If electricity metering is performed by entities other than the
25 electrical corporation, it can create customer confusion, and can
26 create serious safety hazards for customers and utility employees.

27 (d) Customers are entitled to have the electrical corporation
28 resolve all questions regarding the accuracy of bills, including the
29 accuracy of metering and correct application of approved utility
30 tariffs, subject to commission oversight.

31 (e) To protect customers from fraud and abuse, and to enable
32 customers to easily resolve disputes concerning metering or
33 billing, those functions should be performed *in the most efficient*
34 *and least costly manner*, only by an electrical corporation subject
35 to regulation by the commission.

36 ~~SEC. 41.—~~

37 ~~SEC. 40.~~ Section 393.2 is added to the Public Utilities Code,
38 to read:

1 393.2. (a) All metering of customer usage of electricity and
2 customer ~~with average usage of less than 1,000 kilowatthours per~~
3 ~~month~~ billing shall be performed by the electrical corporation.

4 (b) No residential or small commercial customer *with average*
5 *usage of less than 1,000 kilowatthours per month* may be required
6 to take service under a time-differentiated rate.

7 (c) Nothing in this article limits the commission's power or
8 authority with respect to *the contents or nature of* customer billing.
9 The commission may require an electrical corporation to
10 aggregate a customer's multiple accounts into a single bill, so long
11 as the cost for that activity is recoverable in rates.

12 ~~SEC. 42.—~~

13 ~~SEC. 41.~~ Section 397 of the Public Utilities Code is repealed.

14 ~~SEC. 43.—~~

15 ~~SEC. 42.~~ Section 454.55 is added to the Public Utilities Code,
16 to appear immediately following Section 454.5, to read:

17 454.55. (a) The commission shall establish and oversee a
18 long-term, comprehensive integrated resource planning process
19 that results in a balanced, reliable, environmentally responsible
20 portfolio of supply and demand-reduction resources, and is
21 consistent with Sections ~~701.1 and 454.5~~ *454.5 and 701.1*, Article
22 16 (commencing with Section 399.11), and Chapter 4
23 (commencing with Section 25300) of Division 15 of the Public
24 Resources Code.

25 (b) The commission shall ensure that the implementation of an
26 electrical corporation's procurement plan is consistent with the
27 long-term resource plan, to the extent feasible.

28 (c) The commission shall require an electrical corporation,
29 when implementing its procurement plan, to first acquire available
30 energy efficiency resources that are cost-effective compared to
31 other available resource options.

32 ~~SEC. 44.—~~

33 ~~SEC. 43.~~ Section 454.1 of the Public Utilities Code, as added
34 by Chapter 1040 of the Statutes of 2000, is amended and
35 renumbered to read:

36 454.6. (a) Reasonable expenditures by transmission owners
37 that are electrical corporations to plan, design, and engineer
38 reconfiguration, replacement, or expansion of transmission
39 facilities *or other cost-effective transmission alternatives,*
40 *including demand side alternatives, that meet identified need,* are

1 in the public interest and are deemed prudent if made for the
2 purpose of providing ~~lower cost delivery of~~ *delivery of lower cost*
3 electricity to ratepayers, or maintaining or enhancing reliability,
4 whether or not these expenditures are for transmission facilities
5 that become operational.

6 (b) The commission and the Electricity Oversight Board shall
7 jointly facilitate the efforts of the state's transmission owning
8 electrical corporations to obtain authorization from the Federal
9 Energy Regulatory Commission to recover reasonable
10 expenditures made for the purposes stated in subdivision (a).

11 (c) Nothing in this section alters or affects the recovery of the
12 reasonable costs of other electric facilities in rates pursuant to the
13 commission's existing ratemaking authority under this code or
14 pursuant to the Federal Power Act (Ch. 12 (commencing with
15 Section 791a), Title 16, U.S.C.). The commission may
16 periodically review and adjust depreciation schedules and rates
17 authorized for an electric plant that is under the jurisdiction of the
18 commission and owned by electrical corporations and periodically
19 review and adjust depreciation schedules and rates authorized for
20 a gas plant that is under the jurisdiction of the commission and
21 owned by gas corporations, consistent with this code.

22 ~~SEC. 45.—~~

23 *SEC. 44.* Section 454.10 is added to the Public Utilities Code,
24 to read:

25 454.10. (a) Consistent with ~~Section—762 Article 16~~
26 *(commencing with Section 399.11), Sections 454.5, 701.1, and*
27 *762, and Chapter 4 (commencing with Section 25300) of Division*
28 *15 of the Public Resources Code*, and in order to ensure that service
29 provided by electrical corporations is *environmentally clean,*
30 *efficient, cost-effective to ratepayers, and adequate*, the
31 commission may require an electrical corporation that provides
32 distribution service to make direct investments in, or contract with
33 any entity, public or private, for, electric generation plants that are
34 dedicated to serve the customers connected to the electrical
35 corporation's distribution system or grid, consistent with the plan
36 approved by the commission pursuant to Section 454.5.

37 (b) After a hearing, the commission shall approve rates
38 ~~sufficient to afford~~ *that provide* the electrical corporation a
39 reasonable opportunity to recover its reasonable costs of
40 operating, its reasonable investment in, and a reasonable return on

1 its investment in the electric generation plants, in accordance with
2 Sections 330.6, 377, 451, and 1005.5.

3 (c) An electrical corporation may meet the obligations of this
4 section by contracting with or entering into projects for
5 construction of electric generation plants jointly with any entity,
6 including, without limitation, the California Consumer Power and
7 Conservation Financing Authority, California municipalities,
8 cooperatives, and joint powers authorities.

9 (d) Direct investment in electric generation plants is not the
10 exclusive method for electrical corporation's to fulfill their
11 obligation to serve retail customers at just and reasonable rates.
12 The commission shall implement this section ~~consistent with other~~
13 ~~applicable provisions of law, including Sections 701.1 and 454.5~~
14 ~~and Article 16 (commencing with Section 399.11), to achieve a~~
15 ~~through a~~ transparent process that achieves a balanced, reliable,
16 environmentally responsible and cost-effective resource portfolio.

17 (e) *This section does not limit or affect the requirements for*
18 *utilization of cost-effective energy conservation and renewable*
19 *resources established pursuant to this division.*

20 SEC. 45. Section 701.2 is added to the Public Utilities Code,
21 to read:

22 701.2. *On or before July 1, 2004, the commission shall adopt*
23 *standards applicable to the operation, maintenance, and*
24 *stewardship of lands owned or operated by electrical corporations*
25 *in order to ensure that the lands, and any natural resources on*
26 *those lands, are managed in a manner consistent with applicable*
27 *laws protecting public health, the environment, species, habitat*
28 *and other resource values.*

29 SEC. 46. Section 739.12 is added to the Public Utilities Code,
30 to read:

31 739.12. (a) The Legislature finds and declares all of the
32 following:

33 (1) Unlike most businesses or industries, and unlike the
34 California electrical system as a whole, public school facilities
35 tend to have peak electrical usage during winter rather than
36 summer months.

37 (2) Public school facilities as a group impose lower average
38 costs on the electrical system than other facilities of similar size.

39 (3) Current rates do not adequately reflect the seasonal load
40 shape of public school facilities.

(4) Because of the critical importance of public education and the unique characteristics typically exhibited by public school facilities, these facilities should be served at the lowest reasonable rate.

(5) Rates for public school facilities should be reduced to reflect a discount from the electrical corporations otherwise applicable rate schedules.

(b) The commission shall establish *by July 1, 2004*, special bundled service rates for public school facilities that reflect the typical seasonal load shape of public schools and the special importance of public education.

(c) *For purposes of subdivision (b), “public school facilities” means all real property and portable classrooms owned or leased by a school district, county office of education, charter school, community college district, the California State University and the system of institutions of higher education which comprises the California State University as authorized in Section 89001 of the Education Code, and the Trustees of the California State University.*

SEC. 47. Section 761.7 is added to the Public Utilities Code, to read:

761.7. An electrical corporation, holding company as defined in Section 79b(a)(7)(A) of Title 15 of the United States Code, or other entity that owns, controls, operates, or manages a public utility shall be subject to the jurisdiction, control, and regulation of the commission for the limited purpose of monitoring and enforcing conditions in commission decisions D.88-01-063, D.96-11-017, D.99-04-068, D.95-05-021, D.95-12-018, and D.98-03-07.

SEC. 48. Section 9600 of the Public Utilities Code is repealed.

SEC. 49. Section 9601 of the Public Utilities Code is repealed.

SEC. 50. Section 9602 of the Public Utilities Code is repealed.

SEC. 51. Section 9603 of the Public Utilities Code is repealed.

SEC. 52. Section 9604 of the Public Utilities Code is amended to read:

1 9604. For purposes of this division, “local publicly owned
2 electric utility” as used in this division means a municipality or
3 municipal corporation operating as a “public utility” furnishing
4 electric service as provided in Section 10001, a municipal utility
5 district furnishing electric service formed pursuant to Division 6
6 (commencing with Section 11501), a public utility district
7 furnishing electric services formed pursuant to the Public Utility
8 District Act set forth in Division 7 (commencing with Section
9 15501), an irrigation district furnishing electric services formed
10 pursuant to the Irrigation District Law set forth in Division 11
11 (commencing with Section 20500) of the Water Code, or a joint
12 powers authority that includes one or more of these agencies and
13 that owns generation or transmission facilities, or furnishes
14 electric services over its own or its member’s electric distribution
15 system.

16 SEC. 53. Section 9605 of the Public Utilities Code is
17 repealed.

18 SEC. 54. The provisions of this act are severable. If any
19 provision of this act or its application is held invalid, that invalidity
20 shall not affect other provisions or applications that can be given
21 effect without the invalid provision or application.

22 SEC. 55. *Notwithstanding any other provision of this act, this*
23 *act shall not become operative, and is for display purposes only.*

24 SEC. 56. No reimbursement is required by this act pursuant
25 to Section 6 of Article XIII B of the California Constitution
26 because the only costs that may be incurred by a local agency or
27 school district will be incurred because this act creates a new crime
28 or infraction, eliminates a crime or infraction, or changes the
29 penalty for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition of a
31 crime within the meaning of Section 6 of Article XIII B of the
32 California Constitution.

